

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MICHAEL CORDARO

Petitioner,

v.

DECISION AND ORDER

DEPARTMENT of DEFENSE,

19-CV-6601-EAW-MJP

Respondent.

Pedersen M.J. On November 30, 2020, pro se Petitioner Michael Cordaro (“Petitioner”) filed a motion he entitled, “Appellant’s Motion for Court Intervention—Request for Additional Time to Transmit Discovery Requests.” (ECF No. 44.) His concern, as expressed in his motion paper, was that Respondent had put into the mail on November 25, 2020, two DVDs with discovery information and he wanted to make the undersigned “aware of the described discovery dispute prior to the November 30, 2020, court established cutoff date on discovery.” (*Id.* at 1.) The last scheduling order, filed on July 29, 2020 (ECF No. 33), closed factual discovery November 30, 2020, set a deadline of October 30, 2020, for motions to compel, and set January 15, 2021, as the deadline for dispositive motions.

The undersigned responded to ECF No. 44 with a Text Order on February 1, 2021 (ECF No. 51) directing Petitioner to inform the Court by February 8, 2021, if additional time is still required, and if so, what amount of time he requested. As the Honorable Elizabeth Wolford pointed out in her Text Order of February 18, 2021 (ECF No. 54), Petitioner failed to answer ECF No. 51. Instead, Petitioner filed ECF


No. 53 on February 5, 2021, requesting a “change in discovery schedule.” The undersigned scheduled the case for an appearance today, and while questioning Petitioner learned that what he was really seeking was a motion to compel.

Based on the discussion held on the record on Monday, March 15, 2021, the undersigned denies Petitioner’s motion filed on November 30, 2020 (ECF No. 44), and denies the portion of Petitioner’s motion filed on February 5, 2021 (ECF No. 53) seeking a change to the discovery schedule. These denials are without prejudice.

If Petitioner desires an order compelling the defense to produce discovery, he must file a formal motion pursuant to Federal Rule of Civil Procedure 37(a) no later than Monday, March 29, 2021.¹ Should such a motion be filed by that date, and served on defense counsel, then any response will be due on Monday, April 5, 2021. The Court will then notify counsel if oral argument is required.

SO ORDERED

Dated: March 15, 2021
Rochester, New York



MARK. W. PEDERSEN
United States Magistrate Judge

¹ Ordinarily, the Court would enforce its prior deadline of October 2020 for a motion to compel, but since Petitioner is pro se, will extend the time.